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To: House Committee on Judiciary & Hawaiian Affairs

From: Cheryl Kakazu Park, Director

Date: February 21, 2024, 2:00 p.m.
State Capitol, Conference Room 325

Re: Testimony on H.B. No. 2692
Relating to the Mauna Kea Stewardship and Oversight Authority

Thank you for the opportunity to submit testimony on this bill, which would allow any number of members of the Mauna Kea Stewardship and Oversight Authority to talk about the Authority's board business privately outside a meeting, so long as the Authority held a Sunshine Law meeting to make any decisions. The Office of Information Practices (OIP) has concerns about the breadth of this exemption from the Sunshine Law, part I of chapter 92.

The proposed exemption would leave the Authority effectively exempt from the Sunshine Law for four years during its transition period, except that it would be required to hold a Sunshine Law meeting to actually vote to take a proposed action. While the Authority's members would be precluded from actually voting or committing to vote a certain way outside a meeting, the decisionmaking meeting could be simply a formal adoption of decisions that had already been fully hashed out in private to a point just short of asking each member to confirm whether he or she would be voting in favor.

OIP notes the stated purpose of this measure to allow the Authority to use ho'oponopono to develop management and financial plans, establish a framework

for astronomy-related development, develop administrative rules, and so forth, and recognizes the concern that the Sunshine Law's requirements are not conducive to the use of ho'oponopono. However, this proposed exemption from the Sunshine Law for everything but the Authority's actual decision-making is not a "narrowly tailored" one as suggested in the purpose statement, but to the contrary is an almost full exclusion of the public from the Authority's discussions and deliberations, contrary to the statutory intent of the Sunshine Law.

OIP thus has serious concerns about the proposed Sunshine Law exemption, but given the stated intent of the measure and the controversial nature of the subject matter, OIP leaves it to the Legislature to ultimately determine whether the advantages of allowing the Authority to resolve disagreements through ho'oponono outweighs the cost to the public in lost access to the Authority's discussions and deliberations and lost opportunity to potentially influence those discussions and deliberations through public testimony.

Thank you for considering OIP's testimony.



HB2692

RELATING TO THE MAUNA KEA STEWARDSHIP AND OVERSIGHT AUTHORITY
House Committee on Judiciary & Hawaiian Affairs

February 21, 2024

2:00 pm

Conference Room 325

The Office of Hawaiian Affairs (OHA) **OPPOSES HB2692**, which authorizes two or more members of the Mauna Kea Stewardship and Oversight Authority to meet during the transition period described in section 195H-6, HRS, regarding any matter relating to the Authority's business, provided that no commitment to vote is made or sought and no decision-making action is taken, and clarifies that the Authority is subject to state sovereign immunity.

OHA first opposes the Mauna Kea Stewardship and Oversight Authority in principal and practice. However, if the authority continues to operate, we insist that it be held to the highest standards of transparency and that there be an option for interested parties to take legal action against the Authority.

HRS §92-1 states clearly the State Legislature's intent regarding Sunshine Laws: *In a democracy, the people are vested with the ultimate decision-making power. Governmental agencies exist to aid the people in the formation and conduct of public policy. Opening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest. Therefore, the legislature declares that it is the policy of this State that the formation and conduct of public policy – the discussions, deliberations, decisions, and action of governmental agencies – shall be conducted as openly as possible.*

Unspoken in this provision is that the public's interest in participation and public scrutiny also builds trust in the formation of public policy and government processes that impact them.

OHA believes that discussions and proceedings regarding Mauna Kea must be done with the greatest transparency practical and possible. For decades, actions regarding Mauna Kea were done in darkness. Individuals and groups questioning and challenging those activities and decisions were dismissed. It wasn't until protests over the last decade



HB2692

RELATING TO THE MAUNA KEA STEWARDSHIP AND OVERSIGHT AUTHORITY House Committee on Judiciary & Hawaiian Affairs

brought a bright light to those actions and decisions that long-time activists were finally heard. Because of this history, the trust of many, but especially the Hawaiian community, is broken when it comes to the State's actions impacting Mauna Kea.

Mauna Kea—its use, management and stewardship—needs more light, not darkness. OHA is concerned that the provisions in this bill would again take discussions that inevitably lead to actions and decisions back behind closed doors. This will only prove to further degrade the public's and especially the Hawaiian community's trust in future decisions and actions that any state-sanctioned authority takes with regard to Mauna Kea.

OHA is also concerned about the provision that in effect grants sovereign immunity to the Mauna Kea Stewardship and Oversight Authority. The Authority was specifically exempted from the applicability of the entirety of HRS 26-35. This means that, at its inception, sovereign immunity was not envisioned. Excluding the Authority from sovereign immunity allows interested parties to hold it accountable more easily. It is important to preserve this exclusion because, like with the lack of transparency, the state agencies responsible for managing Mauna Kea have long eluded accountability. The Office of Hawaiian Affairs has regularly brought forth the ways the State of Hawai'i has breached its constitutional trust responsibilities in relation to Mauna Kea, bringing to light the extensive history of mismanagement. We believe preserving interested parties' right to bring legal action against the Mauna Kea Stewardship and Oversight Authority or any other entity charged with managing this sacred mountain is vital to a path forward that rebuilds the trust that the State of Hawai'i has repeatedly broken.

Accordingly, OHA urges the Committee to **DEFER HB2692**. Mahalo nui for the opportunity to testify on this important issue.

Chair Tarnas and members of the Committee,

I am John Komeiji, Chair of the Maunakea Stewardship and Oversight Authority.

Mauna Kea is an important cultural and genealogical site to the people of Hawaii and particularly to Native Hawaiians. The summit region of Mauna Kea is a spiritual and special place of significance. Mauna Kea is also a highly valued site for astronomical study which produces significant discoveries that contribute to the understanding of the universe.

The critical significance of Mauna Kea for both culture and science offers an opportunity to develop new ways to responsibly manage and steward the Mauna. The creation of the Authority was intended to create this new paradigm. The membership of the Authority was specifically created to ensure that members with different perspectives were empaneled. These individuals were selected to share their different views, understand and appreciate differing viewpoints, and ultimately seek consensus on the many issues surrounding the Mauna.

The Authority members understand and believe that the current situation, in part, is due to the breakdown or absence of communication. Further, due to a lack of transparency, trust became eroded. To move forward and regain trust, the Authority is committed to increasing communication and transparency. Towards that end, the Authority appreciates and understands the intent and importance of the Sunshine law.

The Authority is totally committed to seeking public input, as well as having full and public discussion and decision-making.

At this early stage of its creation, the Authority is seeking a partial exemption from the Sunshine law. The exemption sought would allow more than two Authority members to meet and discuss matters. The members would not be permitted to solicit votes on a matter and all decision making would remain during Authority meetings with full public discussion. This exemption would be time limited...sunsetting at the end of the five-year transition period.

The Authority seeks this exemption for two reasons.

As the Legislature is aware, the issues surrounding Maunakea are highly charged with passionate opinions on many sides. Part of the charge of the Authority is to work to determine if these issues can be resolved by way of mutual stewardship. To work towards mutual stewardship, culturally appropriate problem-solving platforms such as ho'oponono may be utilized. The Sunshine limitation on communication among and between Authority members excludes utilizing culturally appropriate processes to bring a Hawaiian based approach to this matter. Culturally appropriate platforms allow discussion without the necessity of formally noticing and agendizing meetings or creating a permitted interaction group to allow for the free and candid exchange of ideas and positions. To require only public noticed meetings severely limits communications and impedes discussion and resolution of "big" problems like those surrounding the Mauna. Partial exemption from the strict requirements of the Sunshine law would allow much needed informal discussion.

Secondly, the Authority is tasked with the creation of a new State agency to fulfill this important function. The Legislature has been supportive of the Authority and has appropriated significant funds to create the Authority. However, as a "start-up", the Authority is working its way through the State system to build capacity. Until such time as capacity has been established, the Board members of the Authority have been serving as the working members. The Board members have drafted job descriptions, interviewed and hired employees, drafted RFPs for consultants, engaged in co-management of the mauna with the current manager, and many other functions which are normally undertaken by employees of an agency. As working members, like other regular work teams, there is a necessity for frequent communication between those charged to create and operate the organization. The Sunshine law, as currently applied to the Authority, restricts most of this communication and severely hampers and impedes the creation of this new State entity.

The inability to discuss operational formation challenges and solutions with more than one other member hampers the necessary communication needed to achieve transition within the five-year period. Limiting discussion to formally noticed meetings or through the creation of permitted interaction groups are not practical and hamper efficient operations. Further, the inability to have informal discussions to exchange ideas, discuss novel and innovative approaches or "brainstorm" solutions on a "real-time" basis precludes needed workplace discussions.

To reiterate, the Authority understands that it needs to gain the trust and confidence of the public. This can only be achieved with an elevated level of

transparency. Transparency which the Authority members are committed to. However, the limitations of the Sunshine law impede the ability to increase communication and artificially limit utilization of culturally appropriate problem-solving platforms.

For these reasons, the Maunakea Stewardship and Oversight Authority requests that the Committee pass HB 2692.

Mahalo for permitting us to share our support of this bill.



House Committee on Judiciary & Hawaiian Affairs
Honorable David A. Tarnas, Chair
Honorable Gregg Takayama, Vice Chair

RE: Testimony in Opposition to H.B. 2692, Relating to the Mauna Kea Stewardship and Oversight Authority.
Hearing: February 21, 2024 at 2:00 p.m.

Dear Chair and Members of the Committee:

My name is Ben Creps. I am a staff attorney at the Public First Law Center, a nonprofit organization that promotes government transparency. Thank you for the opportunity to respectfully submit testimony **in opposition to** H.B. 2692.

H.B. 2692 authorizes members of the Mauna Kea Stewardship and Oversight Authority (Authority) to meet and conduct board business – outside of duly-noticed public meetings and without public comment or participation – during the five-year transition period provided by Hawai`i Revised Statutes (HRS) § 195H-6.

Some of the Authority’s most critical work is to be done during this period. This includes the development of “a management plan” to govern land uses, human activities, and overall operations. HRS § 195H-6(b). The Authority is also tasked during this period with developing a financial plan that strives for “financial self-sustainability.” HRS § 195H-6(c). Given the foundational nature of this work, the cultural significance of Mauna Kea, and the sustained public interest in its management, transparency and public participation during the transition period are paramount to the success of the Authority.

Moreover, there is no need to suspend the Sunshine Law here. Existing law provides a robust toolkit that enables the Authority to conduct business effectively. *E.g.*, HRS § 195H-9 (authorizing “advisory groups”); HRS § 92-2.5 (allowing permitted interactions); HRS § 92-3.1 (authorizing limited meetings under certain circumstances); and HRS § 92-4 (allowing closed meetings for limited purposes).

While we appreciate the stated purpose of promoting Ho`oponopono, that practice can fully coexist, in harmony, with the Sunshine Law. Contrary to this intent, H.B. 2692 threatens to erode trust in the Authority and its work, and further divide our community on a significant matter of statewide concern.

Thank you again for the opportunity to testify in opposition H.B. 2692.





KAHEA
THE HAWAIIAN-ENVIRONMENTAL ALLIANCE

PROTECTING

NATIVE HAWAIIAN

CUSTOMARY &

TRADITIONAL RIGHTS AND

OUR FRAGILE

ENVIRONMENT

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KAHEA: the Hawaiian-Environmental Alliance is a non-profit 501(c)3 working to protect the unique natural and cultural resources of the Hawaiian islands. KAHEA translates to English as "the call."

February 20, 2024

Testimony of KAHEA: THE HAWAIIAN-ENVIRONMENTAL ALLIANCE in opposition to HB 2692, exempting the Mauna Kea Stewardship and Oversight Authority from the Sunshine Law, and clarifying it is subject to state sovereign immunity.

Hearing: February 21, 2024 at 2:00 p.m.

To the House Judiciary and Hawaiian Affairs Committee,

KAHEA: The Hawaiian-Environmental Alliance (KAHEA), a Hawai'i nonprofit established in 2000, is asking you to oppose HB 2962, which would exempt the Mauna Kea Stewardship and Oversight Authority (authority) from Hawaii's Sunshine Law, HRS chapter 92, during the critical five year transition period from 2023 through 2028, and clarify it is not subject to sovereign immunity.

We appreciate the intent of the bill. The authority has a leviathan task before it and the end of the transition period looms. The answer, however, is to better support the authority by, amongst other things, enlarging the transition period, and not to compromise the open process of deliberation. "Opening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest." HRS §92-1.

The bill accurately finds: "Many people perceived that Mauna Kea was being managed without sufficient and genuine consultation with the Native Hawaiian community, which had the cumulative effect of degrading trust between the community and those entrusted with managing Mauna Kea." Exempting the authority from the sunshine law, however, will further degrade trust with the community.

As proposed, the most critical period for which the authority was installed - to manage the transition from the University of Hawai'i management - would be shielded from meaningful scrutiny and without any way of enforcing limitations on seeking votes or making decisions.

The bill proposes the Sunshine Law is too restrictive to allow for "the practice of ho'oponopono", which is proposed as a "way for the authority to find solutions to the difficult matters it faces." Page 61 of Mary Kawena Pukui's *Nānā i ke Kumu* Vol 1. explains it was a process used at a family scale and states plainly, "ho'oponopono was not a community-wide therapy," and it is unclear whether "ho'oponopono" is being appropriately used in this context. In any case, the bill proposes no measures to ensure the authority's private meetings

would only be used for ho'oponopono as it rather provides a blanket exception to the Sunshine Law.¹

There is deep confusion about the role and purpose of the authority and ho'oponopono in international astronomy communities. The National Astronomical Observatory of Japan (NAOJ) recently wrote: "in Hawai'i, we began a dialogue with volunteers for mediation, called ho'oponopono" which "laid the foundation for the current dialog being conducted by the Maunakea Stewardship and Oversight Authority (MKSOA)" and counted amongst "visible improvements in the TMT situation" that "MKSOA, which includes indigenous people, is steadily building its organizational structure[.]" Granting a blanket exemption to the authority to conduct ho'oponopono will exacerbate this confusion and invite further misinterpretation of the authority's representation of Kānaka Maoli peoples.

We appreciate the need for the authority's individual members to build trust amongst each other through lengthy private discussion. They are free to do so with less than quorum (5 or fewer members, in this instance) present, as allowed by the Sunshine Law. Further, authority members may serve for three year terms. HRS §195H-3(d). Resolving disputes in private between individual members may not have an effect if and when those members are replaced in a few years.

Inasmuch as individual authority members may have disputes that have led to "decades of distrust", they may submit these matters to mediation, the communications from which are privileged from disclosure. HRS §658H-3(a).

The Sunshine Law already permits less than a quorum of authority members to meet outside of open meetings and for myriad purposes. See HRS §§ 92-2.5 (permitted interactions); 195H-3(b) ("A majority of all members to which the authority is entitled shall constitute a quorum to do business"). The authority has twelve members. Although the guardrails for permitting discussions, such as disclosures and report-back requirements for some such meetings requires further work, this work does not outweigh the need for public scrutiny and trust in the process.

At minimum, this bill should be amended to require private authority meetings to be fully recorded and made available to the public within 72 hours of the meeting on the authority's state website.

Me ke aloha,

2024 Board and Staff of KAHEA: The Hawaiian Environmental Alliance

¹ *Nānā i ke Kumu* consistently defines "ho'oponopono" as a "[p]rayerful family council to 'set to rights' disturbed personal and family relationships" (42), "[l]iterally 'to set right' . . . family council to find the cause of trouble and disturbed relationships and correct them" (59); "setting to right; to make right; to correct; to restore and maintain good relationships among family, and family-and-supernatural powers. The specific family conference in which relationships were 'set right' through prayer, discussion, confession, repentance, and mutual restitution and forgiveness" (60); "hooponopono was not a community-wide therapy" (61) (the "ideal . . . is to keep it in the family and have all the immediate family taking part." (61).



House Committee on Judiciary & Hawaiian Affairs
Chair David A. Tarnas, Vice Chair Gregg Takayama
Wednesday, February 21, 2024, 2 PM Public Hearing in Conference Room 325 on
HB 2692, RELATING TO THE MAUNA KEA STEWARDSHIP AND OVERSIGHT
AUTHORITY

TESTIMONY

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Tarnas, Vice Chair Takayama, and Committee Members:

The League of Women Voters of Hawaii opposes HB 2692.

HB 2692 would temporarily exempt the Mauna Kea Stewardship and Oversight Authority from most requirements of the Sunshine Law. During a multi-year “transition period” ending July 1, 2028, provided that “... no commitment to vote is made or sought...”,

- A quorum could discuss board business at any time without public notice.
- The public would not have to be notified about staff handouts for board meetings.
- The public could be excluded from both in-person and remote meetings.
- The public would not have the right to submit testimony.
- Meeting minutes would not be required.
- Minutes, if prepared, would not have to be disclosed on the board’s website.

The League does not confuse traditional *ho’oponopono* with exclusion of community groups and persons with grievances from meetings to discuss those grievance. Secret board meetings without participation by interested parties will not “...help a very diverse group of stakeholders overcome decades of distrust....”

Thank you for the opportunity to submit testimony.

HB-2692

Submitted on: 2/17/2024 1:08:16 AM

Testimony for JHA on 2/21/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Leimomi Khan	Individual	Support	Written Testimony Only

Comments:

Support HB 2692, RELATING TO THE MAUNA KEA STEWARDSHIP AND JHA OVERSIGHT AUTHORITY. Authorizes 2 or more members of the Mauna Kea Stewardship and Oversight Authority to meet during the transition period described in section 195H-6, HRS, regarding any matter relating to the Authority's business; provided that no commitment to vote is made or sought and no decision-making action is taken. Clarifies that the Authority is subject to state sovereign immunity.

This legislation would enable the Authority to achieve the full transition by allowing the Authority to practice ho‘oponopono to resolve differences and misunderstandings on some of the most contentious issues in an effort to properly care for Maunakea.

HB-2692

Submitted on: 2/19/2024 2:47:24 PM

Testimony for JHA on 2/21/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
cheryl burghardt	Individual	Oppose	Written Testimony Only

Comments:

I OPPOSE this bill which authorizes 2 or more members of the Mauna Kea Stewardship and Oversight Authority to meet during the transition period described in section 195H-6, HRS, regarding any matter relating to the Authority's business; provided that no commitment to vote is made or sought and no decision-making action is taken. Clarifies that the Authority is subject to state sovereign immunity

The purpose of the Sunshine law is to promote ethical standards and prevent corruption or the appearance of dishonest behavior by board (authority) members. Providing access and transparency through public meetings is what builds public trust while circumventing those procedures would certainly lead to mistrust and highlight suspicions.

If a quorum of the authority is gathered and they will be discussing or presenting official business, then the public should be notified and should have the right to attend. Bureaucratic blockades to public access such as HB2692 that would allow members of the authority including those that constitute a quorum to meet regarding the authority's business undermines the entire reason the Sunshine law is in place and would once again have a "cumulative effect of degrading trust between the community and those entrusted with managing Mauna Kea".

Public scrutiny is essential in order to protect against negligence, ineptitude and corruption. There is too much that goes on behind closed doors in Hawai`i politics .

HB-2692

Submitted on: 2/20/2024 10:57:00 AM

Testimony for JHA on 2/21/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Bill Stormont	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Takayama, and members of the House Committee on Judiciary & Hawaiian Affairs. I write today in support of HB2692 seeking authorization for the Mauna Kea Stewardship and Oversight Authority to have a greater degree of flexibility as it engages with community members and stakeholders in non-western methods of interactions and discussion toward community-driven care and stewardship of ALL the resources Mauna Kea holds and presents. This measure will help enable these sensitive and essential processes to be more meaningfully and respectfully done. The enormous body of work done to date to bring forward a new management entity and regime needs the means to carry forward with proper care and diligence. Mahalo.

Shane Akoni Palacat-Nelsen
Kealakekua Bay, South Kona, Hawaii

HB2692

RELATING TO THE MAUNA KEA STEWARDSHIP AND OVERSIGHT AUTHORITY.

House Committee on Judicial and Hawaiian Affairs

February 21, 2024, | 2:00PM | Room 325

Aloha Chair and members of the committee,

My name is Shane Palacat-Nelsen, and I **SUPPORT** HB2692 which authorizes two or more members of the Mauna Kea Stewardship and Oversight Authority (MKSOA) to meet during the transition period described in the section 195H-6, HRS regarding any matter relating to the Authority's business; provided that no commitment to vote is made or sought and no decision-making action is taken. Clarifies that the Authority is subject to state sovereign immunity.

Since 2012, I was selected to serve on the Kahu Ku Mauna Cultural Advisory Committee, advising the Center for Maunakea Stewardship (UH Hilo) and the Maunakea Management Board. I have chaired this committee since 2014, and was appointed by Speaker of the House, Representative Scott Saiki to serve on the Mauna Kea Working Group that provided a report to the legislature as a result, Act 255. During this transitional period, I along with other volunteers continue to serve on these committees, want to ensure the best results for Mauna Kea. In my experience on bringing together various factions of community to collaborate on an issue that is sensitive to all users of Mauna Kea, I will support relaxing the Sunshine law to allow for the legal interests for Native Hawaiians the practice of ho'oponopono within the policy and rule development process. We are a unique State of the Union, and we should be allowed provisions unique to our community on how to handle conflicts and resolutions. This will provide the flexibility to collaborate and process transactions that was allotted by this legislation to transition oversight and authority, and still adhere to the transparency and decision-making protections and provisions afforded by the Sunshine law. Further, as a co-manager, the "relax" will empower the MKSOA to fulfill its mandate to collaborate with the Center for Maunakea Stewardship, Maunakea Management Board, Kahu Ku Mauna Cultural Advisory Committee, and other pertinent partners involved with the stewardship of Mauna Kea.

Please consider passing HB2692. Mahalo for allowing me to testify. Mahalo nui.

HB-2692

Submitted on: 2/20/2024 2:25:00 PM

Testimony for JHA on 2/21/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lynda Williams	Individual	Oppose	Written Testimony Only

Comments:

Aloha. I oppose this legislation on the ground that nobody serving on the authority should be given immunity to be sued. If there's a conflict of interest, which, apparently they're already is according to the OHA challenging the legality of the authority, or abuse of power, it would be important to be able to hold members accountable legally. The discussion in this bill about appropriating the sacred cultural practice Ho'oponopono to somehow resolve decades of exploitation and mismanagement by UH so that development of astronomy on the Maunacan continue as business as usual is offensive. Finally, no addendum's or changes to Act 55 should be pursued in the legislature until the lawsuit brought by OHA, which represents the interests of the beneficiaries of the trust lands where the astronomical district resides is decided.

Please kill this bill.

Mahalo,

Lynda

HOUSE OF REPRESENTATIVES
THE THIRTY-SECOND LEGISLATURE
REGULAR SESSION OF 2024
COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
Rep. David A. Tarnas, Chair
Rep. Gregg Takayama, Vice Chair

TESTIMONY of Laulani Teale IN **OPPOSITION** TO HB 2692 RELATING TO THE MAUNA KEA STEWARDSHIP AND OVERSIGHT AUTHORITY.

2/20/24

Aloha Representatives,

I am a community cultural practitioner of ho‘oponopono and a longtime peace worker who has been involved in efforts to genuinely build peace around Mauna Kea for many decades. I have three major concerns with this measure.

My first concern is the use of the term ho‘oponopono. While I respect many styles of ho‘oponopono, I honestly cannot see a proper use here. One basic thing these genuine styles have in common: in order to be called ho‘oponopono, the process must do the long, often arduous work of actually achieving pono, via full ‘oia’i’o truth and restoration of the flow of aloha, which must have existed to begin with. For this reason (and others), ho‘oponopono does not generally work outside of the Kanaka Maoli cultural family context. It is not right to apply a powerful term and process like this to the work of MKSOA, as it is not a Kanaka cultural organization with an ‘ōhana structure. I am not saying that any Kanaka on MKSOA are not capable of participating in or even conducting ho‘oponopono; this I do not know; and they as Kanaka should certainly have access to all of their cultural healing processes, including ho‘oponopono. But this proposed statute feels like it gives broad validation for ANY of the MKSOA members to make that claim, in any context. What would stop this? Given a long pattern of abuse of the term ho‘oponopono by the State and connected entities, and recently [by TMT itself](#), I am going to say that great caution should be exercised here in creating a law that sets a precedent for potentially broad use without clear restraints on potential colonial misapplication. If there is a need for ho‘oponopono between or involving members, I believe that this is still covered under the State’s mediation laws (which already generally extend to ho‘oponopono).

My second concern is the timing in relation to TMT’s current efforts to construct on Mauna Kea. TMT and its related entities are currently doing a lot of “outreach” and “building relationships” in the community *for the specific purpose of furthering TMT* (see screenshots below). This is already really concerning to me, especially as I am also hearing (thusfar unconfirmed, to be clear, but somewhat substantiated) community concerns about parallel efforts

to fit TMT mirrors into a building in Hilo, for staging purposes. While these TMT confidence efforts are not the work of MKSOA, they could be used by some non-cultural members of MKSOA to putatively “resolve concerns”, as a means of facilitating the building of community confidence. This is indeed TMT’s wont, and this classic colonial behavior has already caused a lot of community damage. As a peace person I am very concerned about this.

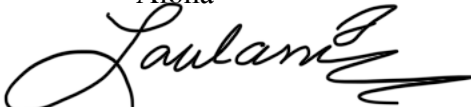
My third major concern is over sunshine law exemptions in general, and the divisiveness they cause. There are too many of these exemptions being proposed right now, and most are frankly dirty. The UH Board of Regents, for example, is also currently trying to exempt itself from the Open Meetings law. This may or may not be related to this measure, but honestly, without detailed knowledge (that we can presume most of the community does not have), it looks like it is, and that is divisive. These optics frankly cause mistrust in the community, because, given all of the bigger context, it frankly looks shifty to a lot of folks, and honestly, for pretty good reason. Open flow of information is a crucial component of genuine community trust and harmony. Shadowy efforts to remove visibility are not good for community trust and harmony at all.

These are my main concerns with this measure. I have not heard any good reasons for the measure that are serious enough to override these concerns.

Genuine peace, which relies upon genuine and complete consent, is of crucial importance in Hawai‘i, and we must be extremely cautious about any misuse of the sacred concept of peace that is not in fact pono.

Mahalo nui loa for the opportunity to testify.

Aloha



Laulani Teale, MPH

Attachment: NAOJ Director statement
(excerpts w/ highlight re: TMT, "ho'oponopono"
efforts, MKSOA, etc)
1/5/24

January 5, 2024 | [Topics](#)



Everyone, happy new year of the Dragon. First of all, I would like to express my heartfelt sympathy to the people affected by the earthquake that struck the Noto Peninsula and Hokuriku region on New Year's Day.

Since assuming the position of Director General of the National Astronomical Observatory of Japan (NAOJ) in April 2018, I have been actively involved in launching new measures and resolving and improving various issues facing NAOJ. Some parts of the Director General's job are easy to understand from the outside, other parts are more opaque. My term as Director General expires this March. So I would like to take this opportunity to look back over the past six years.

In the stalled TMT plan, I made efforts to work with the National Science Foundation (NSF) etc. in Washington, and the (Japanese) Ministry of Education, Culture Sports, Science and Technology (MEXT). We took the initiative to engage in dialogue with the Native Hawaiians and substantially shifted TIO's thinking on local measures from confrontation to dialogue. More concretely, we engaged in a series of dialogues with the Hawai'i state government and state legislature. Particularly, in Hawai'i we began a dialogue with volunteers for mediation, called ho'oponopono, with representatives of the local population. I spent many hours on my knees with them, and they were all storytellers. Their stories about navigation and astronomy, wind and water on Maunakea, the harmony between the Universe and life, and two navel cruisers sent by Japan to defend the Kingdom of Hawai'i were very interesting and changed my perspective on the opposition movement.

After five sessions with more participants each time, the ho'oponopono was interrupted by the corona virus pandemic. But I believe this laid the foundation for the current dialog being conducted by the Maunakea Stewardship and Oversight Authority (MKSOA), the new management organization for Maunakea including indigenous representatives.

I had a difference in opinion with the TIO leadership of that time about the local populous in Hawai'i. I had many heated discussions with the TIO leadership and Board of Governors members about how to respond to the indigenous opposition and about the governance of TIO itself, but eventually I earned their trust from them and now serve as co-chair of the Board of Governors, leading the discussion of important issues before the Board, taking into account the circumstances of each organization. As a result, the situation surrounding TMT has improved significantly.

As you can tell by what I've said thus far, it is no exaggeration to say that a significant part of my six years as Director General has been devoted to reforming TMT and EAO. I need to emphasize that all of this was accomplished through the hard work and cooperation of the many people involved, including those in the Directorate, the Administration Department, and many people inside and outside of NAOJ. Thank you very much.

On the other hand, it is also true that unfortunately there have been some issues in terms of communication among the stakeholders, these were pointed out to us by external parties. I myself regret this very much. So as not to lose sight of the mission to advance together with the astronomy community, including members of NAOJ, I want to create a smooth transition to the next Directorate.

Here I would like to summarize the current status of NAOJ and my personal expectations for the future. Last year brought some very good news for NAOJ, with visible improvements in the TMT situation. MKSOA, which includes indigenous people, is steadily building its organizational structure, and the US Extremely Large Telescope Program (US-ELT) has received its second consecutive year of federal funding. In addition, the TMT project received high marks in the NSF's Project Design Review (PDR) and is now preparing to proceed to the final design phase inside NSF. Of particular importance was the review conducted last August covering TMT related activity in Japan over the last 10 years. Let me quote a bit from the review report:

- While the entire Project has been delayed due to unforeseen circumstances, Japan's workshare is steadily progressing to the extent possible. Although construction has been suspended, the project remains of high academic significance. Japan's contribution to the Project as a whole is significant, as it has developed various activities to gain the understanding of local residents. Japan's significant contribution to the promotion of this project can be evaluated as contributing to gaining trust in Japan and enhancing Japan's presence.
- The problems with the local community in Hawai'i are not unique to this Project. These events have had a large impact on the way we think about the role of science in society. It is hoped that the lessons learned through this Project will be widely shared with other large international collaborative projects.

Thus, the past achievements of TMT received an extremely high evaluation. In addition, last year, there was a public call for applications for the "Roadmap 2023," which selects Japan's large-scale scientific projects, and on December 22, out of the 47 applications, 7 projects were newly adopted and publicly announced. TMT received a high evaluation and was acknowledged to proceed as a "MEXT Project to Promote Large Scientific Frontiers." TMT has not only received high evaluation for its past achievements; its future feasibility has again been recognized by the government. NAOJ and the astronomy community take this national endorsement very seriously, and we would like to emphasize that TMT must be realized.



Returning to the topic of TMT, we have been doing our best to promote the project for the past six years, and compared to how things were around 2019 when construction was suspended, both the situation in Hawai'i and the NSF process have improved and progressed considerably, and the understanding of the MEXT and others has also deepened significantly. TMT will take time, but it can be done. I would like to stress the importance that everyone in NAOJ and the astronomical community come together and speak with ONE VOICE.

Since it is the New Year, I have discussed our accomplishments over the past six years and our outlook for the future. In summary:

- TMT will proceed, but will take time, so we must remain united to complete it.
- In the meantime, we hope that Subaru Telescope 2.0 and ALMA 2 will continue to produce results for the next 10 years. It is already time to start considering Subaru Telescope 3.0 and ALMA 3.0, which lie beyond that.
- In terms of technology and project execution, the differences between ground-based telescopes and space telescopes are rapidly vanishing. NAOJ should take its technology and project execution capabilities and apply them to space-based projects. The SOLAR-C Project and JASMINE are important trailblazers.
- ATC, which provides technology for the projects, should evolve and grow through the Social Implementation Program, aiming to reach a critical mass of technology that will bring new contributions to astronomy, both technologically and financially. ADC, which archives Big Data, is expected to produce new developments as a research center for the yet to be defined field of “astro-informatics.”

Earlier, I expressed my regret for communication deficiencies. In my experience in space development, it is no exaggeration to say that when a Project comes to a standstill, or a major technical glitch or failure occurs, the root problem can often be traced back to human relations or organizational issues.

Last year was another year of major wars around the world, reminding us of the importance of international cooperation and collaboration. In the field of astronomy, it has become the norm for a single leading-edge observatory to be built through international cooperation. And with most space development projects being carried out through international cooperation, it is fair to say that further internationalization of NAOJ is essential. Communication not only within the observatory but also within international projects is becoming more and more important.

When I was younger, I felt that ideas for new projects began with conversations around the water-cooler. I would like to stress the importance of people talking to each other, whether in large organizations or small groups. Last November, the NAOJ Future Planning Symposium 2023 was successfully held, and there was lively discussion on how to formulate NAOJ's future plan with the consensus of the Japanese astronomical community. The symposium was a great success. It is my hope that people inside and outside of NAOJ will deepen their mutual understanding through dialog, and that astronomy and related fields will further develop through the cooperation between people in Japan and abroad.

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National Astronomical Observatory of Japan Director General Saku Tsuneta
